

HUMAN SERVICES DEPARTMENT [441]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 249A.4 and 2015 Iowa Legislature CCS 505, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating To Providers Of Medical And Remedial Care” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

The amendments implement a cost-savings initiative that was part of the basis for the Department’s budgets for state fiscal years 2016 and 2017, as appropriated by the 2015 Iowa legislature. As appropriated, the Department’s budgets assume savings from this initiative beginning July 1, 2015. The amendments would cap the monthly cost of all Intellectual Disability (ID) Waiver services provided to a member (other than home and vehicle modifications) at the maximum monthly cost of services in an intermediate care facility for persons with intellectual disabilities (ICF/ID).

These amendments were a cost-savings initiative proposed by the Iowa Medicaid Enterprise (IME), incorporated into the Governor’s budget as proposed to the legislature, and used by the legislature’s Conference Committee in estimating the need to be met by the Medicaid budget. At all stages of development, these changes were assumed to become effective for dates of service on or after July 1, 2015. These amendments will require an amendment to the ID waiver approved application from the Centers for Medicare and Medicaid Services (CMS). The projected November 4, 2015, effective date is based on the timeline to receive CMS approval on the waiver amendment.

Any interested person may make written comments on the proposed amendments on or before August 25, 2015. Comments should be directed to Harry Rossander, Bureau of Policy

Coordination, Department of Human Services, Hoover State Office Building, 5th Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by email to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A, 217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4 and 2015 Iowa Legislature CCS 505.

The following amendments are proposed.

ITEM 1. Amend subrule **79.1(2)** Provider categories: “18. Supported community living,” “24. Interim medical monitoring,” and “25. Residential-based supported community living,” as follows:

18. Supported community living	Retrospectively limited prospective rates. See 79.1(15)	For intellectual disability and brain injury waiver effective 7/1/13: \$9.19 per 15-minute unit, not to exceed the maximum daily ICF/ID rate per day plus 3%
		<u>For the intellectual disability waiver effective 7/1/15: \$9.19 per 15-minute unit, not to exceed the maximum daily ICF/ID rate per day</u>

24. Interim medical monitoring and treatment:

Home health agency (provided	Cost-based rate for home health	Effective 7/1/13: Lesser of
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by home health aide)	aide services provided by a home health agency	maximum Medicare rate in effect 6/30/13 plus 3%, converted to a 15-minute rate, or maximum Medicaid rate in effect 6/30/13 plus 3%, converted to a 15-minute rate
Home health agency (provided by nurse)	Cost-based rate for nursing services provided by a home health agency	Effective 7/1/13: Lesser of maximum Medicare rate in effect 6/30/13 plus 3%, converted to a 15-minute rate, or maximum Medicaid rate in effect 6/30/13 plus 3%, converted to a 15-minute rate.
Child development home or center	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$3.45 per 15-minute unit.
Supported community living provider	Retrospectively limited prospective rate. See 79.1(15)	<u>For the Brain Injury waiver and Health and Disability waiver,</u> E ffective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$9.19 per 15-minute unit, not to exceed the maximum ICF/ID rate per day plus 3%. <u>For the intellectual disability waiver effective 7/1/15: \$9.19 per 15-minute unit, not to exceed the maximum daily ICF/ID rate per day</u>
25. Residential-based supported community living	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/ 13 <u>15</u> : Not to exceed the maximum daily ICF/ID rate per day plus 3% .

ITEM 2. Rescind rule **441—83.66(249A)** and adopt the following **new** rule in lieu thereof:

441—83.66(249A) Allowable services and aggregate cap.

83.66(1) Allowable services. Services allowable under the HCBS intellectual disability waiver are supported community living, respite, personal emergency response system, nursing, home health aide, home and vehicle modification, supported employment, consumer-directed attendant care, interim medical monitoring and treatment, transportation, adult day care, day habilitation, prevocational services, financial management, independent support brokerage, self-directed personal care, self-directed community supports and employment, and individual-directed goods and services as set forth in rule 441—78.41(249A).

83.66(2) Aggregate cap. The aggregate monthly cost for all intellectual disability waiver services authorized in a member's service plan, excluding the cost of home and vehicle modifications, shall not exceed the maximum daily ICF/ID per diem rate in effect on July 1st of the fiscal year during which the services are rendered, converted to a monthly amount.



Iowa Department of Human Services
Information on Proposed Rules

Name of Program Specialist	Telephone Number	Email Address
Brian Wines		

1. Give a brief summary of the rule changes:

The rule changes being proposed are related to cost-savings initiatives that were part of the basis for the Department's budgets for state fiscal years 2016 and 2017, that were to begin July 1, 2015, as appropriated by the 2015 Iowa legislature. This proposed rule would cap the per member costs for aggregate ID Waiver services to an amount equal to the per diem rate for intermediate care facilities for persons with intellectual disabilities (ICF/ID) established for the fiscal year, converted to a monthly amount.

2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations): Iowa Code 249A.4. 3. What is the reason for the Department requesting these changes?

This was a cost-savings initiative proposed by the IME, accepted by DHS management and the Governor's office, incorporated into the Governor's budget as proposed to the legislature, and used by the legislature's Conference Committee in estimating the need to be met by the Medicaid budget. At all stages, it was assumed that the change would be effective for dates of service on or after July 1, 2015. This rule requires an amendment to the ID waiver approved application. The projected November 4, 2015, effective date is based on the timeline to receive CMS approval on the waiver amendment.

4. What will be the effect of this rule making (who, what, when, how)?

This rule will reduce the amount of total monthly funding available for members on the ID waiver.

5. Is the change mandated by State or Federal Law?

The change is required to stay within the Department's budget, as appropriated by the legislature

6. Will anyone be affected by this rule change? If yes, who will be affected and will it be to the person's (organization's) benefit or detriment?

- This rule will reduce the amount of total monthly funding available for an estimated 361 members on the ID waiver. This is inclusive of members that have received SCL daily rates over the ICF/ID rate through the exception to policy process.
- This rule will also limit the amount of revenues available to HCBS services providers that provide needed supports to these members.
- It is expected that providers may discharge the higher costs members from services as the provider would not be funded at a level to meet their service costs.
- Providers will not be willing to admit new members that require high service rates, such as those transferring from the Money Follows the Person (MFP) or out-of-state programs, due to inadequate funding.
- Targeted case managers will have increased difficulty in finding appropriate community based services for high cost service members. This could result in increased facility placements (ICF/ID, NF, out-of-state, etc.).

- It is anticipated that the department will see an increase in the number of exception to policy requests to allow total services costs to exceed the monthly cap.

7. What are the potential benefits of this rule?

This rule will save to the Medicaid program of approximately \$2.1M annually.

8. What are the potential costs, to the regulated community or the state of Iowa as a whole, of this rule?

Members with high rates for service may find it difficult to find community-based service providers in the state of Iowa willing to provide services at the proposed rate maximums. This could cause an increase in the number of exception to policy requests or an increase in facility and out-of-state placements.

9. Do any other agencies regulate in this area? If so, what agencies and what Administrative Code sections apply?

N/A

10. What alternatives to direct regulation in this area are available to the agency? Why were other alternatives not used?

As this was a cost containment directive, no alternative options were reviewed. The department has initiated many containment strategies over the past several years due to Medicaid budget shortfalls.

Beginning January 1 2016, the department will manage the Medicaid long term care services through the use of a Managed Care Organization (MCO). The MCO will manage the Medicaid program, including the payment for services under the ID waiver program, in accordance with the scope of work (SOW) established in RFP MED-16-009. Under the SOW:

The Contractor shall continually monitor 1915(c) HCBS waiver member's expenditures against the aggregate monthly cost cap, and work with members reaching their cap to identify non-waiver services that are available and appropriate to be provided in the event the cap is met to assist the member in remaining in the community and prevent or delay institutionalization. If the Contractor determines a member's needs cannot be safely met in the community and within the aggregate monthly costs defined in the 1915(c) HCBS waiver in which the member is enrolled, the Contractor shall determine if additional services may be available through the Contractor's own Exception to Policy process as described in Section 8.5.10, to allow the member to continue to reside safely in the community. In the event the Contractor denies an Exception to Policy and determines the member can no longer have his or her needs safely met through a 1915(c) HCBS waiver, and the member refuses to transition to a more appropriate care setting, the Contractor shall forward this information to the State.

11. Does this rule contain a waiver provision? If not, why?

The amendment does not contain waiver provisions because the department has an established procedure for considering exceptions to policy. A waiver of any of the rules may be granted through that process

12. What are the likely areas of public comment?

Members, guardians, family members and advocates will be opposed to the changes that will reduce the amount of service available and directly affect the health and safety of the member. Some guardians of members with high medical needs have been very vocal in the past with similar service funding cuts and have involved local media and have threatened lawsuits.

13. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee)

These rules will not have an impact on private sector jobs or employment opportunities in Iowa.



Administrative Rule Fiscal Impact Statement

Date: July 2, 2015

Agency: Human Services

IAC citation: 441 IAC

Agency contact: Brian Wines

Summary of the rule:

The rule changes being proposed are related to cost-savings initiatives that were part of the basis for the Department's budgets for state fiscal years 2016 and 2017, beginning July 1, 2015, as appropriated by the 2015 Iowa legislature. This proposed rule would cap the per member costs for all ID Waiver services to an amount equal to the per diem rate for intermediate care facilities for persons with intellectual disabilities (ICF/ID) established for the fiscal year, converted to a monthly amount.

Fill in this box if the impact meets these criteria:

- ☐ No fiscal impact to the state.
- ☐ Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.
- ☐ Fiscal impact cannot be determined.

Brief explanation:

Fill in the form below if the impact does not fit the criteria above:

☒ Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

Assumptions:

This analysis assumes a 7/1/15 effective date.

The savings estimate is based on SFY14 experience.

Describe how estimates were derived:

During SFY14:

- The monthly cost for services at the ICF/ID rate was \$10,530.26 (\$346.39 X 30.4 days)
- 361 members had total service costs over \$346.39 per day at some time during SFY14 which may include a variety of services offered under the ID waiver. This includes 56 members that received an ETP to go over the Supported Community Living daily rate cap.
- The average monthly cost for all services for the members over the cap is \$12,195.55.
- The total number of cumulative months of service is 1,297

Total SFY14 projected savings by limiting the total daily cost for service to the ICF/ID rate is \$2,159,881.

- Saving calculation: $\$12,195.55 - \$10,530.26 = \$1,665.29 \times 1,297 \text{ mo} = \$2,159,881$.

Based on this analysis, the SFY16-17 Medical Assistance budget assumes total savings of approximately \$2.2 million and state savings of \$1.0 million.

<i>Estimated Impact to the State by Fiscal Year</i>		
	<u>Year 1 (SFY16)</u>	<u>Year 2 (SFY17)</u>
Revenue by each source:		
General fund	<u>(\$1,000,000)</u>	<u>(\$1,000,000)</u>
Federal funds	<u>(\$1,200,000)</u>	<u>(\$1,200,000)</u>
Other (specify):	<u> </u>	<u> </u>
TOTAL REVENUE	<u>(\$2,200,000)</u>	<u>(\$2,200,000)</u>
Expenditures:		
General fund	<u>(\$1,000,000)</u>	<u>(\$1,000,000)</u>
Federal funds	<u>(\$1,200,000)</u>	<u>(\$1,200,000)</u>
Other (specify):	<u> </u>	<u> </u>
TOTAL EXPENDITURES	<u>(\$2,200,000)</u>	<u>(\$2,200,000)</u>
NET IMPACT	<u>\$0</u>	<u>\$0</u>
<p><u> X </u> This rule is required by state law or federal mandate. <i>Please identify the state or federal law:</i> Governor's cost containment strategy selected for implementation as part of the appropriations bill CCS 505.</p> <p><u> </u> Funding has been provided for the rule change. <i>Please identify the amount provided and the funding source:</i></p> <p><u> X </u> Funding has not been provided for the rule. <i>Please explain how the agency will pay for the rule change:</i> The SFY16 Medical Assistance appropriation has been reduced in anticipation of these savings.</p>		
<p><i>Fiscal impact to persons affected by the rule:</i> This rule will reduce the amount of total monthly funding available for an estimated 361 members on the ID waiver. This is inclusive of members that have received SCL daily rates over the ICF/ID rate through the exception to policy process. This rule will also limit the amount of revenues available to HCBS services providers that provide needed supports to these members.</p>		
<p><i>Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):</i> There will be no impact to counties or local governments unless they provide Medicaid services that are subject to this rule change. If so, they may experience a reduction in Medicaid reimbursement.</p>		
Agency representative preparing estimate: Joe Havig Telephone number: 515-281-6022		